

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JENNIFER STOVER, as Special
Administrator for the Estate of Victor
Stover,

Plaintiff,

vs.

THE EVANGELICAL LUTHERAN
GOOD SAMARITAN SOCIETY d/k/a
GOOD SAMARITAN SOCIETY —
ST. JOHN'S,

Defendant.

4:20-CV-3093

ORDER

This matter is before the Court on the Evangelical Lutheran Good Samaritan Society's motion to compel arbitration and to stay proceedings ([filing 3](#)) pursuant to the Federal Arbitration Act, [9 U.S.C. § 1 et seq.](#) The Court will grant that motion.

The plaintiff has not responded to the Good Samaritan Society's motion. See [NECivR 7.1\(b\)\(1\)\(B\)](#). Failure to file a brief opposing a motion does not confess the motion, but it does preclude the opposing party from contesting the moving party's statement of facts. [NECivR 7.1\(b\)\(1\)\(C\)](#). And it's the opposing party's burden to file and serve supporting evidence. [NECivR 7.1\(b\)\(2\)\(A\)](#). Here, the Court has nothing to contradict the Good Samaritan Society's prima facie case for arbitrability—that is, that there was an agreement to arbitrate between the Good Samaritan Society and the plaintiff's decedent and that the specific dispute here (negligence) falls within the scope of that agreement. See [Express Scripts, Inc. v. Aegon Direct Mktg. Servs.](#), 516 F.3d 695, 699-700 (8th

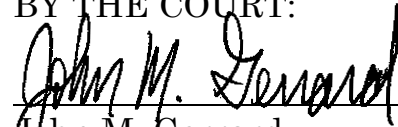
Cir. 2008). Accordingly, the Court concludes that this matter is subject to arbitration, and will compel arbitration pursuant to 9 U.S.C. § 4.

IT IS ORDERED:

1. The Good Samaritan Society's motion to stay and to compel arbitration (filing 3) is granted.
2. The parties are directed to proceed to arbitration in accordance with the terms of the arbitration agreement.
3. Every 90 days from the date of this order, counsel for the Good Samaritan Society shall file a report on the Court's docket which explains the current status of the pending arbitration.
4. The Clerk of the Court is directed to set an initial status report deadline of December 1, 2020.
5. The Clerk of the Court shall close this case for statistical purposes.

Dated this 2nd day of September, 2020.

BY THE COURT:



John M. Gerrard
Chief United States District Judge